

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Request for Waiver and Appeal)	
Invoicing Deadline)	CC Docket No. 02-6
)	CC Docket No. 13-184
Southeastern Public Library System)	
of Oklahoma)	
McAlester, Oklahoma)	
)	
FCC Form 471 # 161032195)	

**SOUTHEASTERN PUBLIC LIBRARY SYSTEM OF
OKLAHOMA**

MCALESTER, OK

June 25, 2018

Deborah Sovereign

Kellogg & Sovereign Consulting, LLC
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Ada, OK 74820
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On behalf of Southeastern Public Library System of Oklahoma, BEN 140224, I am respectfully requesting a waiver of the invoicing deadline due to the fact that a different issue was on appeal at USAC and the service provider could not submit invoices while the issue was being adjudicated. Now that USAC has granted the appeal, it appears that the Commission needs to waive the invoicing deadline to allow the service provider to seek reimbursement from the program.

If this had been an appeal granted by the Commission, the Library would have received a routine waiver of the invoicing deadline, consistent with the Wireline Competition Bureau's decisions in its monthly public notices.

Applicant Name:	Southeastern Pub Lib Sys of OK
Billed Entity Number	140224
Service Provider:	OneNet (Oklahoma State Regents)
SPIN:	143015254
Funding Year:	2016
Form 471 Application Number	161032195
Funding Request Numbers	1699073597 and 1699073664
Funding Letter Dated	January 4, 2017
FCC Approval – Streamlined Resolution of Requests DA 18-175	February 28, 2018
USAC Approval per FCC decision, Revised Funding Commitment Decision Letter	April 4, 2018

Overview

The Southeastern Public Library System of Oklahoma ("applicant" or "Library") was transitioning service by upgrading bandwidth during the 2016-17 funding year. During PIA review, the applicant provided the reviewer with cut-over dates but the reviewer did not properly enter the service start date and service end dates for the new services.

On February 28, 2018, the FCC approved a waiver of the 60-day deadline for time to file an appeal with USAC. This waiver allowed USAC to review the appeal.

On April 4, 2018, USAC issued a revised funding commitment decision letter approving the correction of the service start and end dates.

On June 12, 2018, the service provider, OneNet, notified the consultant's offices that they were still not able to invoice USAC for the additional months since USAC had not changed the last date to invoice and moved the two funding requests to the invoice extension list.

On June 19, 2018, the applicant's consultant submitted a case with USAC (Case # 240240) to find out the status on whether or not USAC would be able to update the invoice deadline so that the service provider could submit an invoice for the additional months approved per the USAC appeal decision dated April 4, 2018. [We have not yet received a response, so we are filing this waiver request in case a waiver is necessary.]

Discussion

The applicant is seeking a waiver of the invoicing deadline in section 54.514(a)¹ Because the Library's FCC waiver request and its USAC appeal were not approved until after the invoice due date of January 29, 2018.

In codifying the invoicing rules in 2014, the Commission determined that waivers of the invoicing rules were generally not in the public interest and that the Bureau should grant waivers of the invoicing rules only in limited circumstances.² In the *Ada Public Library Order*³, however, the Commission waived the requirement for filing the one-time invoice extension request for those applicants who were waiting for USAC to provide an FCC Form 498 ID or a PIN and were therefore unable to file the BEAR before the funding year 2015 invoice filing deadline for recurring services. The Commission has also granted similar waivers for this reason.⁴

Southeastern Public Library System of Oklahoma was unable to invoice because it was awaiting USAC action, just like the applicants in the *Ada Public Library Order*. If an applicant has a pending appeal, it is often the case that there is no existing commitment to which to tie an invoice extension request. It is only after an appeal or waiver has been granted does USAC issue a revised funding commitment decision letter.

This waiver request is also consistent with the routine Commission practice of waiving the invoice deadline for appeals and waiver requests the Wireline Competition Bureau has granted. In each monthly Public Notice granting universal service appeals, the Commission notes that it is waiving the invoicing deadline rule, as necessary, to effectuate its ruling.⁵ Here, the same relief is necessary when USAC has granted the appeal, but given the Commission's codification of the invoicing deadline rule, it is possible that USAC believes it does not have the authority to grant a waiver of the invoicing deadline, even though the invoice request was necessarily delayed by the appeal and USAC's subsequent review.

¹ 47 C.F.R. § 54.514(a). To the extent necessary, the Library also requests a waiver of the rule that applicants request an extension prior to the invoice filing deadline. 47 C.F.R. § 54.514(b). USAC would not have considered an extension request if it had been filed prior to its decision on the appeal.

² *E-rate Modernization Order*, 29 FCC Rcd at 8965-66, para. 238-40.

³ *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Ada Public Library; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 32 FCC Rcd 1909 WCB 2017) (*Ada Public Library Order*) (granting a waiver for these applicants that were unable to file their BEAR forms while waiting for USAC to provide an FCC Form 498 ID or personal identification number (PIN) at the time of the invoice filing deadline).

⁴ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, DA 17-385 (WCB April 2017).

⁵ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, DA 18-561, at n. 5 (WCB May 2018) ("We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to our ruling. See 47 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).")

Conclusion

For the reasons stated above, the applicant respectfully requests a waiver of the invoicing deadline to allow the applicant to file invoices for the funding approved as a result of the FCC waiver and the subsequent USAC appeal approval.

Respectfully submitted,

A handwritten signature in blue ink that reads "Deborah J. Sovereign". The signature is fluid and cursive, with the first name "Deborah" and last name "Sovereign" clearly legible.

Deborah J. Sovereign
Consultant

Attachment: Letter of Agency

ATTACHMENT: LETTER OF AGENCY



401 North Second Street
McAlester, Oklahoma 74501
918.426.0456

E-RATE LETTER OF AGENCY 2016-17

APPLICANT: Southeastern Pub Lib Sys of OK, McAlester, OK

("Applicant") hereby authorizes Kellogg & Sovereign® Consulting, LLC or its designated agents or employees ("KSLLC") to act on our behalf during the term of this authorization.

Employees authorized: Debi Sovereign, Jane Kellogg, Mel Van Patten, Mandy Wood, Cameron King, Christina Bailey, Mai Fields, Natalie Green, Shea Pierce, Stacy Simpkins, Teagan Vick, Marci White.

Although not exclusive, KSLLC is specifically authorized to conduct the following actions on behalf of the Applicant:

- ♦ Prepare and submit Federal Communications Commission ("FCC") Forms 470, 471, 486, 500, 472 and other forms requested by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC")
- ♦ Prepare and submit documentation to USAC or the FCC in compliance with E-Rate program rules and regulations.
- ♦ Act as our agent in working with representatives of the FCC or USAC to provide information as requested during application review, selective reviews, site visits, audits and any other activity associated with review of our applications.
- ♦ Prepare Requests for Proposal ("RFPs") to be posted to the KSLLC website and distributed to appropriate service providers.
- ♦ Provide information to service providers as needed to clarify information in RFPs and Forms 470.
- ♦ Solicit and receive proposals from service providers for requested services.
- ♦ Prepare comparisons of proposals from service providers.
- ♦ Complete contracts for eligible E-Rate services as specifically directed by the Applicant's authorized representative.

I also understand that in submitting these forms on our behalf, representatives of Kellogg & Sovereign® Consulting, LLC are making certifications for our school district. By signing this letter of agency under oath, I make the following certifications as required by the FCC¹:

I certify that the schools I represent are eligible for support because they are schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.

I certify that the entity(ies) I represent or the entities listed on our applications will secure access, separately or through this program, to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities to be listed on our application will secure access to all of the resources necessary to pay the discounted charges for eligible services from funds to which access will be secured in the funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

¹ Certifications per FCC Forms 470, 471 and 486. <http://www.usac.org/si/tools/forms.aspx> 5/20/2014

¹Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184, E-Rate Modernization Order, FCC 14-99A1 Released on 7/23/2014 at p.125-128 . http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0723/FCC-14-99A1.pdf (last visited July 31, 2014).

I authorize Kellogg & Sovereign® Consulting, LLC to post my Form 470 and, if applicable, Request for Proposal (RFP). Unless I am purchasing eligible services exempt from the competitive bidding requirement, I certify that a FCC Form 470 will be posted and that any related RFP will be made available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the most cost-effective service offering will be selected, with price being the primary factor considered, and the most cost-effective means of meeting educational needs and technology goals.

I certify that I will review all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities I represent will comply with them.

I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500 and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on our applications have or will not have received anything of value or a promise of anything of value, other than services and equipment sought by means of forms filed with the Schools & Libraries Division, from the service provider, or any representative or agent thereof or any consultant in connection with our request for services.

I certify that I and the entity(ies) I represent will comply with all program rules, including recordkeeping requirements, and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There will be signed contracts or other legally binding agreements covering all of the services listed on our FCC Forms 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

I certify that I will retain required documents for a period of at least **10 years** (or whatever retention period is required by the rules in effect at the time of this certification), after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

I certify that I am authorized to order supported services for the eligible entity(ies) I represent. I certify that I am authorized to sign this Letter of Agency and all information to be provided to Kellogg & Sovereign® Consulting, LLC for the E-Rate submission will be true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to the associated applications have complied with the terms, conditions, and purposes of this program, that no kickbacks were or will be paid to anyone and that false statements on FCC forms can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I acknowledge that all pricing and technology infrastructure information submitted as part of an FCC Form 471 shall be treated as public and non-confidential by the Administrator unless the applicant specifies a statute, rule, or other restriction, such as a court order or an existing contract limitation barring public release of the information. I certify that contracts and other agreements will not prohibit disclosure of pricing or technology infrastructure information.

I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities that will be listed on our application, or any person associated in any way with my entity and/or the entities listed on our application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

I certify that if any of the funding requests listed on our FCC forms are for discounts for products or services that contain both eligible and ineligible components that Kellogg & Sovereign® Consulting, LLC on our behalf will allocate the cost of the contract to eligible and ineligible components as required by the Commission's rules at 47 C.F. R. § 54.504.

I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on the applicable FCC forms will be net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

I certify that prior to the commencement of service, the school(s) I represent will be in compliance with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).

I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information and belief, all information provided to KSLLC for E-Rate submission is true. If any of the statements made above are incorrect, fraudulent or misleading, the undersigned and their institution agrees to indemnify, as allowed by state law, KSLLC, its members, employees and agents of any and all liability, legal fees or actions that may arise from the incorrect, fraudulent or misleading statement(s).

Applicant Name, City, State: Southeastern Pub Lib Sys of OK, McAlester, OK

Signature of Authorized Person: Michael Hull Date: 12/17/2015

Printed Name of Authorized Person: Michael Hull Title: CEO

This authorization shall remain in effect until KSLLC is notified of its cancellation in writing via certified mail.

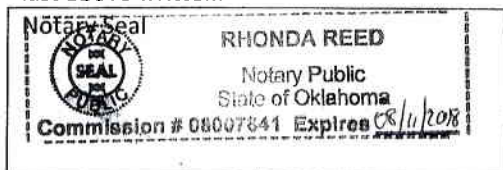
SWORN AFFIDAVIT

STATE OF Oklahoma)
) ss.
COUNTY OF Pittsburg)

On this 17 day of December, 2015, before me, the subscriber, a Notary Public in and for said State and

County, personally appeared Michael Hull, known or identified to me to be the person whose name is subscribed to this Letter of Agency, and acknowledged that he/she is authorized on behalf of said entity/entities to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said organization.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in said State and County on the day and year last above written.



Rhonda Reed
(Signature of Notary)

My Commission Expires: 08/11/2018